

By RON LENIS

HB. No. 2808

A BILL TO BE ENTITLED

AN ACT

relating to the development and management of water resources.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 5.504(a), Water Code, is amended to read as follows:

(a) If the commission, the executive director, or the executive director's representative issues an emergency order under this subchapter without a hearing, the order shall set a time and place for a hearing to affirm, modify, or set aside the emergency order to be held before the commission or its designee as soon as practicable after the order is issued. If the emergency order is issued under Section 5.517 or 5.518, the order shall set a time for the hearing not later than the 20th day after the date the emergency order is issued.

SECTION 2. Subchapter L, Chapter 5, Water Code, is amended by adding Sections 5.517, 5.518, 5.519, and 5.520 to read as follows:

Sec. 5.517. EMERGENCY PERMIT TO DIVERT AND USE WATER; AMENDMENT TO WATER RIGHT. (a) Except as provided by Section 5.506 and after notification to the governor, the commission by emergency order may issue a permit to divert and use water or amend an existing permit, certified filing, or certificate of adjudication for an initial period not to exceed 120 days if the commission finds that:

1 (1) emergency conditions exist that present an
2 imminent threat to the public health, safety, and welfare or the
3 environment and that override the necessity to comply with
4 established statutory procedures; and

5 (2) there is no feasible practicable alternative to
6 the emergency authorization. The emergency authorization may be
7 renewed once for a period not to exceed 60 days.

8 (b) The executive director may issue an emergency order if
9 an imminent threat to the public health, safety, and welfare or the
10 environment exists that requires emergency action before the
11 commission can take action under Subsection (a) and there is no
12 feasible alternative. If the executive director issues an
13 emergency order under this subsection, the commission shall hold a
14 hearing as provided for in Section 5.504 as soon as practicable but
15 not later than 10 days after issuance of the order to affirm,
16 modify, or set aside the order. The person desiring the emergency
17 order must comply with Section 5.502 before the executive director
18 may act on the request for emergency action.

19 (c) The notice requirements of Section 11.132 relating to
20 the time for notice, newspaper notice, and method of giving a
21 person notice do not apply to a hearing held on an application for
22 an emergency order under this section. The commission shall give
23 the general notice of the hearing that the commission considers
24 practicable under the circumstances.

25 (d) The commission may adopt rules and impose fees necessary
26 to carry out the provisions of this section.

27 (e) An emergency order under this section does not vest in

1 the grantee any right to the diversion, impoundment, or use of
2 water and expires by its terms.

3 Sec. 5.518. EMERGENCY ORDER FOR TEMPORARY TRANSFER OF USE OF
4 WATER RIGHT. (a) The commission by emergency order may grant the
5 temporary transfer and use of all or part of a surface water right
6 for other than domestic or municipal use to a retail or wholesale
7 water supplier for public health and safety purposes.

8 (b) The commission may direct the applicant to timely pay
9 the amounts for which the applicant may be potentially liable under
10 this section and to fully indemnify and hold harmless the state,
11 the executive director, and the commission from any and all
12 liability for the order sought. The commission may order bond or
13 other surety in a form acceptable to the commission as a condition
14 for an emergency order under this section. The commission may not
15 grant an emergency authorization under this section that would
16 cause a violation of a federal regulation.

17 (c) A person granted an emergency order under this section
18 is liable to the owner from whom the use is transferred for the
19 fair market value of the water transferred and for any damages
20 proximately caused by the transfer of use. If, within 60 days of
21 the termination of the order, the parties do not agree on the
22 amount due, or if full payment is not made, either party may file a
23 complaint with the commission to determine the amount due.

24 (d) The commission by rule shall establish a dispute
25 resolution procedure for a complaint filed under this section.
26 After exhausting all administrative remedies under this section, an
27 owner from whom the use is transferred may file suit to recover or

1 determine the amount due in a district court in the county where
2 the owner resides or has its headquarters. The prevailing party in
3 a suit filed under this subsection is entitled to recover court
4 costs and reasonable attorney's fees.

5 Sec. 5.519. EMERGENCY WORKS SAFETY ORDER. The commission
6 may issue a mandatory or prohibitory emergency order directing the
7 owner of a dam, levee, or other water-storage or flood-control work
8 to repair, modify, maintain, dewater, or remove a work if the
9 commission finds that:

10 (1) the existing condition of the work is causing or
11 will cause extensive or severe property damage or economic loss to
12 others or is posing an immediate and serious threat to human life
13 or health; and

14 (2) other procedures available to the commission to
15 remedy or prevent the occurrence will result in unreasonable delay.

16 Sec. 5.520. EMERGENCY ORDER FOR OPERATION OF UTILITY THAT
17 DISCONTINUES OPERATION OR IS REFERRED FOR APPOINTMENT OF RECEIVER.
18 The commission may issue an emergency order appointing a willing
19 person to temporarily manage and operate a utility under Section
20 7.403. Notice of the action is adequate if the notice is mailed or
21 hand delivered to the last known address of the utility's
22 headquarters.

23 SECTION 3. Section 7.004, Water Code, is amended to read as
24 follows:

25 Sec. 7.004. REMEDIES CUMULATIVE. The remedies under this
26 chapter are cumulative of all other remedies. Nothing in this
27 chapter affects the right of a private corporation, [or]

1 individual, or political subdivision that has a justiciable
2 interest to pursue any available common law remedy to enforce a
3 right, to abate a condition of pollution or other nuisance, to
4 recover damages to enforce a right, or to prevent or seek redress
5 or compensation for the violation of a right or otherwise redress
6 an injury.

7 SECTION 4. Subchapter B, Chapter 7, Water Code, is amended
8 by adding Section 7.034 to read as follows:

9 Sec. 7.034. ATTORNEY'S FEES; COSTS. A district court may
10 award the costs of litigation, including reasonable attorney's fees
11 and expert costs, to any political subdivision of the state,
12 private corporation, or individual that is a water right holder and
13 that prevails in a suit for injunctive relief to redress an
14 unauthorized diversion, impoundment, or use of surface water in
15 violation of Chapter 11 or a rule adopted under Chapter 11.

16 SECTION 5. Section 7.051(b), Water Code, is amended to read
17 as follows:

18 (b) Except as provided by this subsection, this [This]
19 subchapter does not apply to violations of Chapter [117] 12, 13,
20 16, or 36 [~~of this code, or Chapter 341, Health and Safety Code~~].
21 This subchapter does apply to Section 16.236.

22 SECTION 6. Section 7.052, Water Code, is amended to read as
23 follows:

24 Sec. 7.052. MAXIMUM PENALTY. (a) The amount of the
25 penalty for a violation of Chapter 18, 32, 33, or 34 of this code
26 or Chapter 366, 371, or 372, Health and Safety Code, may not exceed
27 \$2,500 a day for each violation.

1 (b) The amount of the penalty for a violation under Chapter
2 11 may not exceed \$5,000 a day for each violation.

3 (c) The penalty for a violation of a rule or order adopted
4 under Section 16.236 may not exceed \$1,000 a day for each
5 violation.

6 (d) The amount of the penalty for a violation under Chapter
7 341, Health and Safety Code, may not be less than \$50 or more than
8 \$1,000 for each violation.

9 (e) The amount of the penalty for all other violations
10 within the jurisdiction of the commission to enforce may not exceed
11 \$10,000 a day for each violation.

12 (f) [~~e~~] Each day that a continuing violation occurs may be
13 considered a separate violation. The commission may authorize an
14 installment payment schedule for an administrative penalty
15 assessed under this subchapter, except for an administrative
16 penalty assessed under Section 7.057 or assessed after a hearing
17 under Section 7.058.

18 SECTION 7. Section 7.054, Water Code, is amended to read as
19 follows:

20 Sec. 7.054. REPORT OF VIOLATION. (a) If, after examination
21 of a possible violation and the facts surrounding that possible
22 violation, the executive director concludes that a violation has
23 occurred, the executive director may issue a preliminary report in
24 accordance with commission rules that includes recommendations
25 regarding any penalty or corrective action.

26 (b) A report regarding a possible violation under Chapter 11
27 must state the facts on which the conclusion was based and

1 recommend the amount of any penalty. The executive director shall
2 base the recommended amount of the proposed penalty on the factors
3 provided by Section 7.053 and shall analyze each factor for the
4 benefit of the commission.

5 SECTION 8. Section 7.069, Water Code, is amended to read as
6 follows:

7 Sec. 7.069. DISPOSITION OF PENALTY. (a) Except as provided
8 by Subsection (b), a [A] penalty collected under this subchapter
9 shall be deposited to the credit of the general revenue fund.

10 (b) A penalty collected under this subchapter from a public
11 utility shall be paid to the commission and deposited in the water
12 utility improvement account as provided by Section 341.0485, Health
13 and Safety Code.

14 SECTION 9. Subchapter B, Chapter 7, Water Code, is amended
15 by adding Section 7.076 to read as follows:

16 Sec. 7.076. COMPROMISE, MODIFICATION, OR REMISSION OF
17 CERTAIN PENALTIES. Notwithstanding any other provision to the
18 contrary, the commission may compromise, modify, or remit, with or
19 without condition, any penalty imposed under this subchapter for a
20 violation under Chapter 11.

21 SECTION 10. Section 7.102, Water Code, is amended to read as
22 follows:

23 Sec. 7.102. MAXIMUM PENALTY. (a) A person who causes,
24 suffers, allows, or permits a violation of a statute, rule, order,
25 or permit relating to Chapter 11, 18, 32, 33, or 34 of this code or
26 Chapter 366, 371, or 372, Health and Safety Code, shall be assessed
27 for each violation a civil penalty not less than \$50 nor greater

1 than \$5,000 for each day of each violation as the court or jury
2 considers proper.

3 (b) The amount of a penalty for a violation of a rule or
4 order issued by the commission under Section 12.052 may not exceed
5 \$5,000.

6 (c) A person who causes, suffers, allows, or permits a
7 violation of a statute, rule, order, or permit relating to Chapter
8 13 shall be assessed for each violation a civil penalty not less
9 than \$100 nor greater than \$5,000 for each day of each violation as
10 the court or jury considers proper.

11 (d) A person who causes, suffers, allows, or permits a
12 violation of a statute, rule, order, or permit relating to any
13 other matter within the commission's jurisdiction to enforce,
14 other than violations of Chapter [447] 12, [437] 16, or 36 of this
15 code, or Chapter 341, Health and Safety Code, shall be assessed for
16 each violation a civil penalty not less than \$50 nor greater than
17 \$25,000 for each day of each violation as the court or jury
18 considers proper.

19 (e) Each day of a continuing violation is a separate
20 violation.

21 SECTION 11. Sections 7.105(a) and (c), Water Code, are
22 amended to read as follows:

23 (a) On the request of the executive director or the
24 commission, the attorney general shall institute a suit in the name
25 of the state for injunctive relief under Section 7.032, to recover
26 a civil penalty, or for both injunctive relief and a civil penalty.
27 The attorney general may initiate a suit for recovery of a penalty

1 under this section for a violation under Section 13.414.

2 (c) Except as provided by this subsection, the [The] suit
3 may be brought in Travis County, in the county in which the
4 defendant resides, or in the county in which the violation or
5 threat of violation occurs. A suit to recover a penalty for a
6 violation of a rule or order issued by the commission under Section
7 12.052 may be brought in Travis County.

8 SECTION 12. Subchapter D, Chapter 7, Water Code, is amended
9 by adding Section 7.1075 to read as follows:

10 Sec. 7.1075. DISPOSITION OF PENALTY COLLECTED FROM PUBLIC
11 UTILITY. A penalty collected under this subchapter from a public
12 utility shall be paid to the commission and deposited in the water
13 utility improvement account as provided by Section 341.0485, Health
14 and Safety Code.

15 SECTION 13. Subchapter D, Chapter 7, Water Code, is amended
16 by adding Section 7.112 to read as follows:

17 Sec. 7.112. LIMITATION ON SUIT FOR VIOLATION OF SECTION
18 11.081. An action to collect the penalty provided by Section 7.102
19 for a violation of Section 11.081 must be brought within two years
20 from the date of the alleged violation.

21 SECTION 14. Section 7.351, Water Code, is amended to read as
22 follows:

23 Sec. 7.351. CIVIL SUITS. If it appears that a violation or
24 threat of violation of Chapter 16, 26, 28, or 34 of this code or
25 Chapter 341, 361, 371, 372, or 382, Health and Safety Code, or a
26 provision of Chapter 401, Health and Safety Code, under the
27 commission's jurisdiction or a rule adopted or an order or a permit

1 issued under those chapters or provisions has occurred or is
2 occurring in the jurisdiction of a local government, the local
3 government or, in the case of a violation of Chapter 401, Health
4 and Safety Code, a person affected as defined in that chapter, may
5 institute a civil suit under Subchapter D in the same manner as the
6 commission in a district court by its own attorney for the
7 injunctive relief or civil penalty, or both, as authorized by this
8 chapter against the person who committed, is committing, or is
9 threatening to commit the violation.

10 SECTION 15. Section 11.0843, Water Code, is transferred to
11 Subchapter C, Chapter 7, Water Code, renumbered as Section 7.077,
12 and amended to read as follows:

13 Sec. 7.077 [~~11-0843~~]. FIELD CITATION. (a) Upon witnessing
14 a violation of Chapter 11 [~~this-chapter~~] or a rule or order or a
15 water right issued under Chapter 11 [~~this-chapter~~], a watermaster
16 or the watermaster's deputy, as defined by commission rule, may
17 issue the alleged violator a field citation alleging that a
18 violation has occurred and providing the alleged violator the
19 option of either:

20 (1) without admitting to or denying the alleged
21 violation, paying an administrative penalty in accordance with the
22 predetermined penalty amount established under Subsection (b) of
23 this section and taking remedial action as provided in the
24 citation; or

25 (2) requesting a hearing on the alleged violation in
26 accordance with Section 7.058 [~~11-0842~~] of this code.

27 (b) By rule the commission shall establish penalty amounts

1 corresponding to types of violations of Chapter 11 [~~this--chapter~~]
2 or rules or orders adopted or water rights issued under Chapter 11
3 [~~this--chapter~~].

4 [~~{c}--A--penalty--collected--under--this--section--shall---be~~
5 ~~deposited--in--the--state--treasury--to--the--credit-of-the-general~~
6 ~~revenue-fund-~~]

7 SECTION 16. Section 11.138(a), Water Code, is amended to
8 read as follows:

9 (a) The commission may issue temporary permits for
10 beneficial purposes to the extent that they do not interfere with
11 or adversely affect prior appropriations or vested rights on the
12 stream from which water is to be diverted under such temporary
13 permit. The commission may, by appropriate order, authorize any
14 member of the commission to approve and issue temporary permits
15 without notice and hearing if it appears to such issuing party that
16 sufficient water is available at the proposed point of diversion to
17 satisfy the requirements of the temporary permit as well as all
18 existing rights. No temporary permit issued without notice and
19 hearing shall authorize more than 10 acre-feet of water, nor may it
20 be for a term in excess of one year. The commission by rule may
21 authorize the beneficial use, without a permit, of not more than 25
22 acre-feet of water, for a term not to exceed one year, if the
23 diversion of water will not affect existing water right holders and
24 the user of the water registers the use with the commission in the
25 manner required by the commission.

26 SECTION 17. Section 11.139, Water Code, is amended to read
27 as follows:

1 Sec. 11.139. EMERGENCY AUTHORIZATIONS. [~~(a)~~] Except as
2 provided by Section 11.148 of this code, the commission may grant
3 an emergency permit, order, or amendment to an existing permit,
4 certified filing, or certificate of adjudication under Subchapter
5 L, Chapter 5 [~~after notice to the governor for an initial period of~~
6 ~~not more than 120 days if the commission finds that emergency~~
7 ~~conditions exist which present an imminent threat to the public~~
8 ~~health and safety and which override the necessity to comply with~~
9 ~~established statutory procedures and there are no feasible~~
10 ~~practicable alternatives to the emergency authorization. Such~~
11 ~~emergency action may be renewed once for not longer than 60 days].~~

12 [~~(b)~~] A person desiring to obtain an emergency authorization
13 under this section shall submit to the commission a sworn
14 application containing the following information:

15 [~~(1)~~] a description of the condition of emergency
16 justifying the granting of the emergency authorization;

17 [~~(2)~~] a statement setting forth facts which support the
18 findings required under this section;

19 [~~(3)~~] an estimate of the dates on which the proposed
20 authorization should begin and end;

21 [~~(4)~~] a description of the action sought and the
22 activity proposed to be allowed, mandated, or prohibited; and

23 [~~(5)~~] any other statements or information required by
24 the commission.

25 [~~(c)~~] If the commission finds the applicant's statement made
26 under Subsection (b) of this section to be correct, the commission
27 may grant emergency authorizations under this section without

1 notice--and--hearing--or--with--such--notice--and--hearing--as--the
2 commission--considers--practicable--under--the--circumstances.

3 [(d)--If--the--commission--grants--an--emergency--authorization
4 under--this--section--without--a--hearing,--the--authorization--shall--fix--a
5 time--and--place--for--a--hearing--to--be--held--before--the--commission.--The
6 hearing--shall--be--held--as--soon--after--the--emergency--authorization--is
7 granted--as--is--practicable--but--not--later--than--20--days--after--the
8 emergency--authorization--is--granted.

9 [(e)--At--the--hearing,--the--commission--shall--affirm,--modify,--or
10 set--aside--the--emergency--authorization.--Any--hearing--on--an--emergency
11 authorization--shall--be--conducted--in--accordance--with--Chapter--2001,--
12 Government--Code,--and--rules--of--the--commission.

13 [(f)--If--an--imminent--threat--to--the--public--health--and--safety
14 exists--which--requires--emergency--action--before--the--commission--can
15 take--action--as--provided--by--Subsections--(a)---through--(c)--of--this
16 section--and--there--are--no--feasible--alternatives,--the--executive
17 director--may--grant--an--emergency--authorization--after--notice--to--the
18 governor.---If---the---executive---director---issues--an--emergency
19 authorization--under--this--subsection,--the--commission--shall--hold--a
20 hearing--as--provided--for--in--Subsections--(d)--and--(e)--of--this--section.
21 The--requirements--of--Subsection--(b)--of--this--section--shall--be
22 satisfied--by--the--applicant--before--action--is--taken--by--the--executive
23 director--on--the--request--for--emergency--authorization.

24 [(g)--The--requirements--of--Section--11.132--of--this--code
25 relating--to--the--time--for--notice,--newspaper--notice,--and--method--of
26 giving--a--person--notice--do--not--apply--to--a--hearing--held--on--an
27 application--for--an--emergency--authorization--under--this--section,--but

1 such---general---notice---of---the---hearing---shall---be---given---as---the
2 commission,---under---Subsections---(c)---and---(e)---of---this---section,
3 considers-practicable-under-the-circumstances.

4 [(h)---The---commission---may---grant---an-emergency-authorization
5 under-this-section-for-the-temporary-transfer-and-use-of-all-or
6 part-of-a-permit,---certified-filing,---or-certificate-of-adjudication
7 for-other-than-domestic-or-municipal-use-to-a-retail---or---wholesale
8 water---supplier-for-public-health-and-safety-purposes.---In-addition
9 to-the-requirements-contained-in-Subsection-(b)---of---this---section,
10 the---commission---may---direct-that-the-applicant-will-timely-pay-the
11 amounts-for-which-the-applicant-may---be---potentially---liable---under
12 Subsection---(j)---of---this-section-and-to-the-extent-authorized-by-law
13 will-fully-indemnify-and-hold-harmless---the---state,---the---executive
14 director,---and---the---commission---from-any-and-all-liability-for-the
15 authorization-sought.---The---commission---may---order---bond---or---other
16 surety---in---a---form-acceptable-to-the-commission-as-a-condition-for
17 such-emergency-authorization.---The---commission---may---not---grant---an
18 emergency---authorization---under---this---section---which-would-cause-a
19 violation-of-a-federal-regulation.

20 [(i)---In-transferring-the-amount-of-water---requested---by---the
21 applicant,---the-executive-director-or-the-commission-shall-allocate
22 the-requested-amount-among-two-or-more-permits,---certified---filings,
23 or---certificates---of---adjudication---for---other---than---domestic---or
24 municipal-use.

25 [(j)---The-person-granted---an---emergency---authorization---under
26 Subsection---(h)---of---this---section---is---liable-to-the-owner-and-the
27 owner's-agent-or-lessee-from-whom-the-use-is---transferred---for---the

1 fair--market--value--of--the--water--transferred-as-well-as-for-any
2 damages-caused-by-the-transfer-of-use---If,--within-60-days--of--the
3 termination--of--the-authorization,--the-parties-do-not-agree-on-the
4 amount-due,--or-if-full-payment-is-not-made,--either-party-may-file-a
5 complaint-with-the-commission-to-determine--the--amount--due.---The
6 commission--may--use--dispute-resolution-procedures-for-a-complaint
7 filed-under-this-subsection.---After-exhausting--all--administrative
8 remedies--under--this--subsection,--an--owner--from-whom-the-use-is
9 transferred-may-file-suit-to-recover-or-determine-the-amount-due-in
10 a-district-court-in-the-county-where-the-owner-resides-or--has--its
11 headquarters.---The--prevailing--party--in--a-suit-filed-under-this
12 subsection-is--entitled--to--recover--court--costs--and--reasonable
13 attorney's-fees.

14 [(k)---The-commission-may-prescribe-rules-and-adopt-fees-which
15 are-necessary-to-carry-out-the-provisions-of-this-section.

16 [(l)---An-emergency-authorization-does-not-vest-in-the-grantee
17 any--right-to-the-diversion,--impoundment,--or-use-of-water-and-shall
18 expire-and-be-cancelled-in-accordance-with-its-terms.]

19 SECTION 18. Section 11.173(b), Water Code, is amended to
20 read as follows:

21 (b) A permit, certified filing, or certificate of
22 adjudication or a portion of a permit, certified filing, or
23 certificate of adjudication is exempt from cancellation under
24 Subsection (a) of this section:

25 (1) to the extent of the owner's participation in the
26 Conservation Reserve Program authorized by the Food Security Act,
27 Pub.L. No. 99-198, Secs. 1231-1236, 99 Stat. 1354, 1509-1514 (1985)

1 or a similar governmental program; [or]

2 (2) if any portion of the water authorized to be used
3 pursuant to a permit, certified filing, or certificate of
4 adjudication has been used in accordance with a regional water plan
5 approved pursuant to Section 16.053 of this code;

6 (3) if the permit, certified filing, or certificate of
7 adjudication was obtained to meet demonstrated long-term public
8 water supply or electric generation needs as evidenced by a water
9 management plan developed by the holder and consistent with
10 projections of future water needs contained in the state water
11 plan; or

12 (4) if the permit, certified filing, or certificate of
13 adjudication was obtained as the result of the construction of a
14 reservoir funded, in whole or in part, by the holder of the
15 permit, certified filing, or certificate of adjudication as part of
16 the holder's long-term water planning.

17 SECTION 19. Section 11.177(b), Water Code, is amended to
18 read as follows:

19 (b) In determining what constitutes reasonable diligence or
20 a justified nonuse as used in Subsection (a)(2) of this section,
21 the commission shall give consideration to:

22 (1) whether sufficient water is available in the
23 source of supply to meet all or part of the appropriation during
24 the 10-year period of nonuse;

25 (2) whether the nonuse is justified by the holder's
26 participation in the federal Conservation Reserve Program or a
27 similar governmental program as provided by Section 11.173(b)(1) of

1 this code;

2 (3) [~~whether---the---permit,---certified---filing,---or~~
3 ~~certificate-of--adjudication--was--obtained--to--meet--demonstrated~~
4 ~~long-term--public--water--supply--or--electric--generation-needs-as~~
5 ~~evidenced-by-a-water-management-plan-developed-by--the--holder--and~~
6 ~~consistent--with-projections-of-future-water-needs-contained-in-the~~
7 ~~state-water-plan,~~

8 [~~4~~] ~~whether--the---permit,---certified---filing,---or~~
9 ~~certificate--of--adjudication--was--obtained--as--the-result-of-the~~
10 ~~construction-of-a-reservoir-funded,--in-whole-or---in--part,--by--the~~
11 ~~holder---of---the--permit,--certified--filing,--or--certificate--of~~
12 ~~adjudication-as-part-of-the-holder's-long-term-water-planning,~~

13 [~~5~~] whether the existing or proposed authorized
14 purpose and place of use are consistent with an approved regional
15 water plan as provided by Section 16.053 of this code;

16 (4) [~~6~~] whether the permit, certified filing, or
17 certificate of adjudication has been deposited into the Texas Water
18 Bank as provided by Sections 15.7031 and 15.704 of this code or
19 whether it can be shown that the water right or water available
20 under the right is currently being made available for purchase
21 through private marketing efforts; or

22 (5) [~~7~~] whether the permit, certified filing, or
23 certificate of adjudication has been reserved to provide for
24 instream flows or bay and estuary inflows.

25 SECTION 20. Sections 12.052(c), (d), (e), and (f), Water
26 Code, are amended to read as follows:

27 (c) The [~~if-the~~] owner of a dam that is required to be

1 constructed, reconstructed, repaired, or removed in order to comply
2 with the rules and orders promulgated under Subsection (a) of this
3 section may not wilfully fail [~~fails~~] or refuse [~~refuses~~] to comply
4 within the 30-day period following the date of the commission's
5 final, nonappealable order to do so and may not [~~or--if--a--person~~]
6 wilfully fail [~~fails~~] to comply with any rule or other order issued
7 by the commission under this section within the 30-day period
8 following the effective date of the order[~~7--he--is--liable--to--a~~
9 ~~penalty--of--not--more--than--\$5,000--a--day--for--each--day--he--continues--to~~
10 ~~violate--this--section.7--The--state--may--recover--the--penalty--by--suit~~
11 ~~brought--for--that--purpose--in--the--district--court--of--Travis--County~~].

12 (d) The commission may issue an emergency works safety order
13 under Section 5.519 [~~If--the--commission--determines--that--the--existing~~
14 ~~condition--of--the--dam--is--creating--or--will--cause--extensive--or--severe~~
15 ~~property--damage--or--economic--loss--to--others--or--is--posing--an~~
16 ~~immediate--and--serious--threat--to--human--life--or--health--and--that--other~~
17 ~~procedures--available--to--the--commission--to--remedy--or--prevent--the~~
18 ~~occurrence--of--the--situation--will--result--in--unreasonable--delay7--the~~
19 ~~commission--may--issue--an--emergency--order7--either--mandatory--or~~
20 ~~prohibitory--in--nature7--directing--the--owner--of--a--dam--to--repair7~~
21 ~~modify7--maintain7--dewater7--or--remove--the--dam--which--the--commission~~
22 ~~determines--is--unsafe.---The--emergency--order--may--be--issued--without~~
23 ~~notice--to--the--dam--owner--or--with--notice--the--commission--considers~~
24 ~~practicable--under--the--circumstances.---The--notice--does--not--have--to~~
25 ~~comply--with--Chapter--20017--Government--Code~~].

26 (e) [~~If--the--commission--issues--an--emergency--order--under~~
27 ~~authority--of--this--section--without--notice--to--the--dam--owner7--the~~

1 commission-shall-fix-a-time-and-place-for-a-hearing-which-shall--be
2 held--as--soon--as--practicable-to-affirm, modify, or set-aside-the
3 emergency-order.--The-notice-does-not-have-to-comply--with--Chapter
4 2001,--Government--Code.---If-the-nature-of-the-commission's-action
5 requires-further-proceedings, those-proceedings-shall-be--conducted
6 as---appropriate--under--the--Administrative--Procedure--and--Texas
7 Register-Act, as-amended-(Article-6252-13a,--Vernon's--Texas--Civil
8 Statutes)-

9 [f] Nothing in this section or in rules or orders made by
10 the commission shall be construed to relieve an owner or operator
11 of a dam or reservoir of the legal duties, obligations, or
12 liabilities incident to ownership or operation.

13 SECTION 21. Section 13.411, Water Code, is transferred to
14 Subchapter B, Chapter 7, Water Code, renumbered as Section 7.0325,
15 and amended to read as follows:

16 Sec. 7.0325 [3.411]. ACTION TO ENJOIN OR REQUIRE
17 COMPLIANCE: RETAIL PUBLIC UTILITIES. (a) If the commission has
18 reason to believe that any retail public utility or any other
19 person or corporation is engaged in or is about to engage in any
20 act in violation of Chapter 13 [this-chapter] or of any order or
21 rule of the commission entered or adopted under Chapter 13 [this
22 chapter] or that any retail public utility or any other person or
23 corporation is failing to comply with Chapter 13, [this-chapter] or
24 with any rule or order, the attorney general on request of the
25 commission, in addition to any other remedies provided in this
26 chapter, shall bring an action in a court of competent jurisdiction
27 in the name of and on behalf of the commission against the retail

1 public utility or other person or corporation to enjoin the
2 commencement or continuation of any act or to require compliance
3 with Chapter 13 [~~this-chapter~~] or the rule or order.

4 (b) If the executive director has reason to believe that the
5 failure of the owner or operator of a water utility to properly
6 operate, maintain, or provide adequate facilities presents an
7 imminent threat to human health or safety, the executive director
8 shall immediately:

9 (1) notify the utility's representative; and

10 (2) initiate enforcement action consistent with:

11 (A) this subchapter; and

12 (B) procedural rules adopted by the commission.

13 SECTION 22. Chapter 7, Water Code, is amended by adding
14 Subchapter I, and Sections 13.412, 13.4131, and 13.4132, Water
15 Code, are transferred to Subchapter I, Chapter 7, Water Code,
16 redesignated as Sections 7.401, 7.402, and 7.403, and amended to
17 read as follows:

18 SUBCHAPTER I. RECEIVERSHIP; SUPERVISION OF CERTAIN UTILITIES

19 Sec. 7.401 [~~13-412~~]. RECEIVERSHIP. (a) At the request of
20 the commission, the attorney general shall bring suit for the
21 appointment of a receiver to collect the assets and carry on the
22 business of a water or sewer utility that:

23 (1) has abandoned operation of its facilities;

24 (2) informs the commission that the owner is
25 abandoning the system;

26 (3) violates a final order of the commission; or

27 (4) allows any property owned or controlled by it to

1 be used in violation of a final order of the commission.

2 (b) The court shall appoint a receiver if an appointment is
3 necessary:

4 (1) to guarantee the collection of assessments, fees,
5 penalties, or interest;

6 (2) to guarantee continuous and adequate service to
7 the customers of the utility; or

8 (3) to prevent continued or repeated violation of the
9 final order.

10 (c) The receiver shall execute a bond to assure the proper
11 performance of the receiver's duties in an amount to be set by the
12 court.

13 (d) After appointment and execution of bond, the receiver
14 shall take possession of the assets of the utility specified by the
15 court. Until discharged by the court, the receiver shall perform
16 the duties that the court directs to preserve the assets and carry
17 on the business of the utility and shall strictly observe the final
18 order involved.

19 (e) On a showing of good cause by the utility, the court may
20 dissolve the receivership and order the assets and control of the
21 business returned to the utility.

22 (f) For purposes of this section and Section 7.403
23 [~~13-4132~~], abandonment may include but is not limited to:

24 (1) failure to pay a bill or obligation owed to a
25 retail public utility or to an electric or gas utility with the
26 result that the utility service provider has issued a notice of
27 discontinuance of necessary services;

1 (2) failure to provide appropriate water or wastewater
2 treatment so that a potential health hazard results;

3 (3) failure to adequately maintain facilities,
4 resulting in potential health hazards, extended outages, or
5 repeated service interruptions;

6 (4) failure to provide customers adequate notice of a
7 health hazard or potential health hazard;

8 (5) failure to secure an alternative available water
9 supply during an outage;

10 (6) displaying a pattern of hostility toward or
11 repeatedly failing to respond to the commission or the utility's
12 customers; and

13 (7) failure to provide the commission with adequate
14 information on how to contact the utility for normal business and
15 emergency purposes.

16 (g) Notwithstanding Section 64.021, Civil Practice and
17 Remedies Code, a receiver appointed under this section may seek
18 commission approval to acquire the water or sewer utility's
19 facilities and transfer the utility's certificate of convenience
20 and necessity. The receiver must apply in accordance with
21 Subchapter H, Chapter 13.

22 Sec. 7.402 [13-4131]. SUPERVISION OF CERTAIN UTILITIES. (a)
23 The commission, after providing to the utility notice and an
24 opportunity for a hearing, may place a utility under supervision
25 for gross or continuing mismanagement, gross or continuing
26 noncompliance with Chapter 13 [this-chapter] or commission rules,
27 or noncompliance with commission orders.

1 (b) While supervising a utility, the commission may require
2 the utility to:

3 (1) meet [~~abide--by~~] conditions and requirements
4 prescribed by the commission, including:

5 (A) [~~1~~] management requirements;

6 (B) [~~2~~] additional reporting requirements;

7 (C) [~~3~~] restrictions on hiring, salary or
8 benefit increases, capital investment, borrowing, stock issuance or
9 dividend declarations, and liquidation of assets; and

10 (D) [~~4~~] a requirement that the utility place
11 the utility's funds into an account in a financial institution
12 approved by the commission and use of those funds shall be
13 restricted to reasonable and necessary utility expenses; and

14 (2) [~~5--(c)--While---supervising---a---utility,---the~~
15 ~~commission-may-require-that-the-utility~~] obtain commission approval
16 before taking an [any] action [~~that--may--be~~] restricted under
17 Subdivision (1) [~~Subsection-(b)~~] of this section.

18 (c) An [Any] action or transaction for which commission
19 approval is required by this section that [which] occurs without
20 commission approval may be voided by the commission.

21 Sec. 7.403 [~~13-4132~~]. OPERATION OF UTILITY THAT DISCONTINUES
22 OPERATION OR IS REFERRED FOR APPOINTMENT OF RECEIVER. (a) The
23 commission, after providing to the utility notice and an
24 opportunity to be heard by the commissioners at a commission
25 meeting, may authorize a willing person to temporarily manage and
26 operate a utility if the utility:

27 (1) has discontinued or abandoned operations or the

1 provision of services; or

2 (2) has been or is being referred to the attorney
3 general for the appointment of a receiver under Section 7.401
4 [~~13-412~~].

5 (b) The commission may appoint a person under this section
6 by emergency order under Section 5.507 and may authorize an
7 emergency rate increase by emergency order under Section 5.508[
8 ~~and-notice-of-the-action-is-adequate-if-the--notice--is--mailed--or~~
9 ~~hand-delivered---to---the--last--known--address--of--the--utility's~~
10 ~~headquarters]~~.

11 (c) A person appointed under this section has the powers and
12 duties necessary to ensure the continued operation of the utility
13 and the provision of continuous and adequate services to customers,
14 including the power and duty to:

- 15 (1) read meters;
16 (2) bill for utility services;
17 (3) collect revenues;
18 (4) disburse funds;
19 (5) access all system components; and
20 (6) request rate increases.

21 (d) This section does not affect the authority of the
22 commission to pursue an enforcement claim against a utility or an
23 affiliated interest.

24 SECTION 23. Section 13.414, Water Code, is amended to read
25 as follows:

26 Sec. 13.414. VIOLATION BY [~~PENALTY--AGAINST~~] RETAIL PUBLIC
27 UTILITY OR AFFILIATED INTEREST. A [~~(a)-Any~~] retail public utility

1 or affiliated interest may not violate [~~that--violates~~] this
2 chapter, fail [~~fails~~] to perform a duty imposed on it, or fail,
3 neglect, [~~fails--neglects~~] or refuse [~~refuses~~] to obey an order,
4 rule, direction, or requirement of the commission or decree or
5 judgment of a court [~~is-subject-to-a-civil-penalty-of-not-less-than~~
6 ~~\$100-nor-more-than-\$5,000-for-each-violation~~].

7 [~~(b)--A--retail-public-utility-or-affiliated-interest-commits~~
8 ~~a-separate-violation-each-day-it-continues--to--violate--Subsection~~
9 ~~(a)-of-this-section-~~]

10 [~~(c)--The--attorney--general--shall-institute-suit-on-his-own~~
11 ~~initiative-or-at-the-request-of,-in-the-name-of,-and-on--behalf--of~~
12 ~~the--commission-in-a-court-of-competent-jurisdiction-to-recover-the~~
13 ~~penalty-under-this-section-~~]

14 SECTION 24. Section 13.417, Water Code, is transferred to
15 Subchapter B, Chapter 7, Water Code, renumbered as Section 7.034,
16 Water Code, and amended to read as follows:

17 Sec. 7.034 [~~13.417~~]. CONTEMPT PROCEEDINGS IN UTILITY ACTION.
18 If any person or retail public utility fails to comply with any
19 lawful order of the commission issued under Chapter 13 or with any
20 subpoena or subpoena duces tecum issued in a proceeding under
21 Chapter 13 or if any witness refuses to testify about any matter on
22 which he may be lawfully interrogated in a proceeding under Chapter
23 13, the commission may apply to any court of competent jurisdiction
24 to compel obedience by proceedings for contempt.

25 SECTION 25. Chapter 35, Water Code, is amended by adding
26 Section 35.010 to read as follows:

27 Sec. 35.010. CREATION OF DISTRICTS ON PETITION AFTER

1 DESIGNATION OF PRIORITY GROUNDWATER MANAGEMENT AREA. The
2 commission may not consider the creation of a groundwater
3 conservation district in a designated priority groundwater
4 management area before the conclusion of the next regular session
5 of the Texas Legislature following the designation unless the local
6 landowners have initiated a petition process under Chapter 36 for
7 the creation of a groundwater conservation district with a priority
8 groundwater management area.

9 SECTION 26. Section 35.012, Water Code, is amended by adding
10 new Subsections (c) and (d), relettering existing Subsections (c),
11 (d), (e), and (f) as Subsections (e), (f), (g), and (h), and
12 amending existing Subsection (d), to read as follows:

13 (c) Not later than the 10th day after the date on which the
14 commission order designating a priority groundwater management area
15 is issued, the commission shall send written notice of the
16 commission's actions to each landowner in the designated priority
17 groundwater management area at the landowner's most recent known
18 address as shown in the tax rolls of the county in which the land
19 is located. The notice must include the commission's findings and
20 conclusions from the data and information considered in designating
21 the priority groundwater management area and the commission's
22 recommendation regarding the need for a groundwater conservation
23 district in the priority groundwater management area.

24 (d) As soon as possible after a commission order designating
25 a priority groundwater management area, the Texas Agricultural
26 Extension Service shall begin an educational program within the
27 area with the assistance and cooperation of the Texas Water

1 Development Board, the commission, other state agencies, and
2 existing districts to inform the residents of the status of the
3 area's water resources and management options including possible
4 formation of a district.

5 (e) Following the issuance of a commission order under
6 Subsection (b), the landowners in the priority groundwater
7 management area may:

8 (1) create one or more districts under Subchapter B,
9 Chapter 36;

10 (2) have the area annexed to a district that adjoins
11 the area; or

12 (3) create one or more districts through the
13 legislative process.

14 (f) [(d)] The commission shall identify the areas subject to
15 the order of the commission issued under Subsection (b) that have
16 not been incorporated into a district and shall delineate proposed
17 boundaries of a district to include those areas. [~~if--the~~
18 ~~commission-proposes-the-creation-of--one--or--more--districts,--the~~
19 ~~Texas--Agricultural--Extension--Service--shall--begin--an--educational~~
20 ~~program--within--such--areas--with--the--assistance--and--cooperation--of~~
21 ~~the--Texas--Water--Development--Board,--the--commission,--other--state~~
22 ~~agencies,--and--existing--districts--to--inform--the--residents--of--the~~
23 ~~status--of--the--area's--water--resources--and--management--options~~
24 ~~including--possible--formation--of--a--district,--before--beginning--the~~
25 ~~procedures--for--creation--of--a--district--provided--in--Subchapter--B,~~
26 ~~Chapter-36.~~]

27 (g) [(e)] If the commission fails to find that the district

1 utility, the commission shall issue an order containing these
2 findings granting the petition or adopting the proposal, as
3 appropriate.

4 (b) If the commission finds that a district is not feasible
5 and practicable, that it would not be a benefit to the land in the
6 district, that it would not be a public benefit or utility, or that
7 it is not needed, the commission by order shall deny the petition
8 or reject the proposal, as appropriate.

9 (c) The commission may adjust the boundaries of the proposed
10 district to exclude any land that would not be benefited by
11 inclusion in the district and is not necessary to the district for
12 proper regulation of the groundwater reservoir.

13 (d) If the commission grants the petition or adopts the
14 proposal to create the district, it shall direct in its order
15 creating the district that an election be called by the temporary
16 directors to confirm the creation of the district and to elect
17 permanent directors.

18 (e) ~~[The refusal to grant a petition to create a district~~
19 ~~does not invalidate or affect the designation of any management~~
20 ~~area requested in the same petition.]~~

21 ~~[f]~~ The commission shall act on the petition or its
22 proposal within a reasonable amount of time.

23 SECTION 29. Section 36.0151, Water Code, is amended to read
24 as follows:

25 Sec. 36.0151. NOTICE OF CREATION BY COMMISSION OF DISTRICT
26 FOR PRIORITY GROUNDWATER MANAGEMENT AREA. ~~[(a) If the commission~~
27 ~~proposes that a district be created under Section 35.012(d), it~~

1 ~~shall--in--its--order--creating-the-district-provide-that-temporary~~
2 ~~directors-be-appointed-under-Section-36.016-and-that-an-election-be~~
3 ~~called-by-the-temporary-directors-to-confirm-the--creation--of--the~~
4 ~~district-and-to-elect-permanent-directors.~~

5 [b] The commission shall notify the county commissioners
6 court of each county with territory in the district of the
7 district's creation as soon as practicable after issuing the order
8 under Section 36.015(a) creating a [the] district proposed by the
9 commission under Section 35.012(b).

10 SECTION 30. Section 36.108, Water Code, is amended to read
11 as follows:

12 Sec. 36.108. JOINT PLANNING IN MANAGEMENT AREA OR PRIORITY
13 GROUNDWATER MANAGEMENT AREA. (a) If two or more districts are
14 located within the boundaries of the same management area or
15 priority groundwater management area, each district shall prepare a
16 comprehensive management plan as required by Section 36.1071
17 covering that district's respective territory. On completion of
18 the plan, each district shall forward a copy of the new revised
19 management plan to the other districts in the management area or
20 priority groundwater management area.

21 (b) The board of directors of each district in the
22 management area or priority groundwater management area may, by
23 resolution, call a joint meeting with the boards of directors of
24 the other districts in the management area or priority groundwater
25 management area to review the management plans and accomplishments
26 for the management area or priority groundwater management area.
27 The boards shall meet to consider the plans individually and shall

1 compare them to other management plans then in force in the
2 management area. In reviewing the management plans, the boards
3 shall consider:

4 (1) the goals of each management plan and its impact
5 on planning throughout the management area or priority groundwater
6 management area;

7 (2) the effectiveness of the measures established by
8 each management plan for conserving and protecting groundwater and
9 preventing waste, and the effectiveness of these measures in the
10 management area or priority groundwater management area generally;
11 and

12 (3) any other matters that the boards consider
13 relevant to the protection and conservation of groundwater and the
14 prevention of waste in the management area or priority groundwater
15 management area.

16 (c) A joint meeting of the boards of directors must be held
17 in accordance with the Open Meetings Act, Chapter 551, Government
18 Code. Notice of the meeting shall be given in accordance with the
19 requirements for notice of district board of directors meetings
20 under that Act. In addition, notice of the meeting shall be
21 published not later than the 30th day before the date of the
22 scheduled meeting in a newspaper with general circulation in each
23 county in the management area or priority groundwater management
24 area.

25 (d) A district in the management area or priority
26 groundwater management area may file a petition with the commission
27 requesting an inquiry if the petitioner district believes that:

1 (1) another district in the management area or
2 priority groundwater management area has failed to adopt rules;

3 (2) the groundwater in the management area or priority
4 groundwater management area is not adequately protected by the
5 rules adopted by another district; or

6 (3) the groundwater in the management area or priority
7 groundwater management area is not adequately protected due to the
8 failure of another district to enforce substantial compliance with
9 its rules.

10 (e) Not later than the 90th day after the date the petition
11 is filed, the commission shall review the petition and either:

12 (1) dismiss it if it finds that the evidence is not
13 adequate to show that any of the conditions alleged in the petition
14 exist; or

15 (2) select a review panel as provided in Subsection
16 (f).

17 (f) The commission may appoint a review panel consisting of
18 a chairman and four other members. A director or general manager
19 of a district located outside the management area or priority
20 groundwater management area that is the subject of the petition may
21 be appointed to the review panel. The commission may not appoint
22 more than two members of the review panel from any one district.
23 The commission also shall appoint a disinterested person to serve
24 as a nonvoting recording secretary for the review panel. The
25 recording secretary may be an employee of the commission. The
26 recording secretary shall record and document the proceedings of
27 the panel.

1 (g) Not later than the 120th day after appointment, the
2 review panel shall review the petition and any evidence relevant to
3 the petition and, in a public meeting, prepare a report to the
4 commission. The commission may direct the review panel to conduct
5 public hearings at a location in the management area or priority
6 groundwater management area to take evidence on the petition. The
7 review panel may attempt to negotiate a settlement or resolve the
8 dispute by any lawful means.

9 (h) In its report, the review panel shall include:

10 (1) a summary of all evidence taken in any hearing on
11 the petition;

12 (2) a list of findings and recommended actions
13 appropriate for the commission to take and the reasons it finds
14 those actions appropriate; and

15 (3) any other information the panel considers
16 appropriate.

17 SECTION 31. Section 341.047, Health and Safety Code, is
18 transferred to Subchapter E, Chapter 7, Water Code, redesignated as
19 Section 7.1605, Water Code, and amended to read as follows:

20 Sec. 7.1605 [~~341-047~~]. VIOLATIONS RELATING TO PUBLIC
21 DRINKING WATER [~~CRIMINAL--PENALTY~~]. (a) A person commits an
22 offense if the person:

23 (1) violates a provision of Section 341.031, Health
24 and Safety Code;

25 (2) violates a provision of Section 341.032(a) or (b),
26 Health and Safety Code;

27 (3) violates a provision of Section 341.033(a)-(f),

1 Health and Safety Code;

2 (4) constructs a drinking water supply system without
3 submitting completed plans and specifications as required by
4 Section 341.035(c), Health and Safety Code;

5 (5) begins construction of a drinking water supply
6 system without the commission's approval as required by Section
7 341.035(a), Health and Safety Code;

8 (6) violates a provision of Section 341.0351 or
9 341.0352, Health and Safety Code;

10 (7) fails to remove a sign as required by Section
11 341.0354, Health and Safety Code; or

12 (8) violates a provision of Section 341.036, Health
13 and Safety Code.

14 (b) An offense under Subsection (a) is a Class C
15 misdemeanor.

16 (c) If it is shown on a trial of the defendant that the
17 defendant has been convicted of an offense under Subsection (a)
18 within a year before the date on which the offense being tried
19 occurred, the subsequent offense under Subsection (a) is a Class B
20 misdemeanor.

21 (d) Each day of a continuing violation is a separate
22 offense.

23 SECTION 32. Section 341.048, Health and Safety Code, is
24 amended to read as follows:

25 Sec. 341.048. VIOLATION [~~CIVIL-ENFORCEMENT~~]. [~~(a)~~] A person
26 may not cause, suffer, allow, or permit a violation of this
27 subchapter or a rule or order adopted under this subchapter.

1 [(b) -- A person who causes, suffers, allows, or permits a
2 violation under this subchapter shall be assessed a civil penalty
3 of not less than \$50 nor more than \$1,000 for each violation. Each
4 day of a continuing violation is a separate violation.

5 [(c) -- If it appears that a person has violated, is violating,
6 or threatens to violate a provision under this subchapter, the
7 commission, a county, or a municipality may institute a civil suit
8 in a district court for:

9 [(1) -- injunctive relief to restrain the person from
10 continuing the violation or threat of violation;

11 [(2) -- the assessment and recovery of a civil penalty;
12 or

13 [(3) -- both injunctive relief and a civil penalty.

14 [(d) -- The commission is a necessary and indispensable party
15 in a suit brought by a county or municipality under this section.

16 [(e) -- On the commission's request, the attorney general shall
17 institute a suit in the name of the state for injunctive relief, to
18 recover a civil penalty, or for both injunctive relief and civil
19 penalty.

20 [(f) -- The suit may be brought in:

21 [(1) -- Travis County;

22 [(2) -- the county in which the defendant resides; or

23 [(3) -- the county in which the violation or threat of
24 violation occurs.

25 [(g) -- In a suit under this section to enjoin a violation or
26 threat of violation of this subchapter, the court shall grant the
27 state, county, or municipality, without bond or other undertaking,

1 any-injunction-that--the--facts--may--warrant--including--temporary
2 restraining-orders,-temporary-injunctions-after-notice-and-hearing,
3 and-permanent-injunctions.

4 [({h})--Civil--penalties-recovered-in-a-suit-brought-under-this
5 section-by-a--county--or--municipality--shall--be--equally--divided
6 between:

7 [({1})--the-state,-and

8 [({2})--the-county-or-municipality-that-first-brought-the
9 suit-].

10 SECTION 33. (a) The following sections of the Water Code
11 are repealed:

12 (1) Section 11.082;

13 (2) Sections 11.0841 and 11.0842;

14 (3) Sections 13.4151 and 13.416; and

15 (4) Section 13.418.

16 (b) Sections 341.049 and 341.050, Health and Safety Code,
17 are repealed.

18 SECTION 34. This Act takes effect September 1, 1999.

19 SECTION 35. (a) The changes in law made by this Act apply
20 only to an offense committed or a violation or threat of violation
21 that occurs on or after September 1, 1999. For purposes of this
22 section an offense is committed and a violation or threat of
23 violation occurs before September 1, 1999, if any element of the
24 offense, violation, or threat of violation occurs before that date.

25 (b) An offense committed or a violation or threat of
26 violation that occurred before September 1, 1999, is covered by the
27 law in effect when the offense was committed or the violation or

1 threat of violation occurred, and the former law is continued in
2 effect for that purpose.

3 SECTION 36. The importance of this legislation and the
4 crowded condition of the calendars in both houses create an
5 emergency and an imperative public necessity that the
6 constitutional rule requiring bills to be read on three several
7 days in each house be suspended, and this rule is hereby suspended.

H.B. No. 28066

By

Don Lewis

**A BILL TO BE ENTITLED
AN ACT**

Relating to the development and management of water resources.

MAR 10 1999

Filed with the Chief Clerk

Natural Resources

MAR 15 1999

Read first time and referred to Committee on _____

Reported ___ favorably (as amended)
(as substituted)

Sent to Committee on (Calendars)
(Local & Consent Calendars)

Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)
by a vote of _____ yeas, _____ nays, _____ present, not voting

Read third time (amended); finally passed (failed to pass) by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

Engrossed

Sent to Senate

CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

Received from the House

Read and referred to Committee on _____

Reported favorably _____

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)
(_____ yeas, _____ nays)

Read second time, _____, and passed to third reading by (unanimous consent)
(a viva voce vote)
(_____ yeas, _____ nays)

Senate and Constitutional 3 Day Rules suspended by a vote of _____ yeas, _____ nays

Read third time, _____, and passed by (a viva voce vote)
(_____ yeas, _____ nays)

Returned to the House

SECRETARY OF THE SENATE

OTHER SENATE ACTION:

_____ Returned from the Senate (as substituted)
(with amendments)

_____ House concurred in Senate amendments by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House refused to concur in Senate amendments and requested the appointment of a conference committee
by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House conferees appointed: _____, Chair; _____,
_____, _____, _____

_____ Senate granted House request. Senate conferees appointed: _____, Chair;
_____, _____, _____

_____ Conference committee report adopted (rejected) by the House by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Conference committee report adopted (rejected) by the Senate by a (viva voce vote)
(record vote of _____ yeas, _____ nays)